

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI

MERITAIN HEALTH, INC., et. al

Plaintiffs,

vs.

Case No. 4:12-cv-00266-CEJ

EXPRESS SCRIPTS, INC.,
a Delaware corporation,

Defendant

DEFENDANT'S MOTION TO DISMISS

Defendant Express Scripts, Inc., (“ESI”) respectfully moves to dismiss Meritain Health, Inc.’s (“Meritain”) and Scrip World, LLC’s (“SW”) Amended Complaint: (i) pursuant to Fed. R. Civ. P. 12(b)(1) because Meritain lacks standing to bring claims under the Lanham Act; and (ii) pursuant to Fed. R. Civ. P. 12(b)(6) because Meritain and SW have failed to state a claim.

In support of this Motion, ESI submits and incorporates by reference herein the attached Memorandum of Law.

Dated: February 28, 2012

Respectfully Submitted,

HUSCH BLACKWELL LLP

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon Counsel of Record, this 28th day of February 2012, to the addressees shown below:

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